

Remarks

In the Office Action mailed on October 4, 2004, claims 1-15 were rejected as anticipated by Donovan et al. (Patent Application Publication No. 2002/0010492), which claims priority to Provisional Application No. 60/187,280, filed March 6, 2000.

In response, Applicant submits herewith a Rule 1.131 Declaration by Dr. Shinichi Kanno, the inventor on the present application. Applicant respectfully points out this declaration establishes the instant invention was made at least as early as May 25, 1999, as evidenced by the Kanno et al. publication (Kanno, et al. *Circulation*. (May 25, 1999) 99:2682-2687) appended to the Rule 1.131 Declaration. Applicant points out this publication demonstrates using the method of the invention for inducing an increase in capillary density in muscle tissue (see Figure 7, page 2685) and for increasing VEGF mRNA expression in a muscle cell (see Figure 3, page 2684) according to independent claims 1 and 6 of the present application, respectively. Applicants therefore request the Examiner to remove the Donovan et al. reference from consideration.

Applicants also submit herewith a Rule 1.132 Declaration establishing that the Kanno, et al. reference is the inventor's own work and that all authors listed on the publication who are not named inventors on the instant application did not make inventive contributions to the present application.

With respect to the Examiner's citation of the Hang et al. reference (Hang, et al. *Am. J. Physiol.* (1995) 269:H1827-H1831), Applicants respectfully point out that, because the primary reference (Donovan et al.) is inapplicable to the present application as established by the Rule 1.131 declaration of Dr. Kanno, the Hang et al. reference alone is insufficient to render the present application unpatentable. Applicants therefore respectfully request the Examiner to remove the rejections and allow all the pending claims.

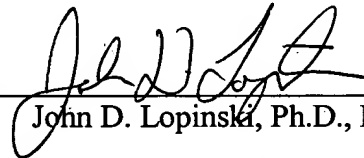
Conclusion

Based on the above arguments and amendments, Applicants believe that claims 1-15 are now in a condition for allowance and therefore respectfully request the Examiner to allow these claims.

It is believed no fee is due with this response. If any fee is due, please charge Deposit Account No. 08-2442.

Respectfully submitted,
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